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Review of implementation of the United Nations Convention against Corruption

Implementation of chapter II (Preventive measures) of the United Nations Convention against Corruption

Thematic report prepared by the Secretariat

Summary

The present report contains the most common and relevant information on successes, good practices, challenges and observations identified in the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, focusing on the implementation of chapter II (Preventive measures) of the Convention.

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I. Introduction, scope and structure of the present report

1. In accordance with paragraphs 35 and 44 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, which were adopted by the Conference of the States Parties to the United Nations Convention against Corruption in its resolution 3/1, the present thematic report has been prepared in order to compile the most common and relevant information on successes, good practices, challenges and observations contained in the country review reports, organized by theme, for submission to the Implementation Review Group, to serve as the basis for its analytical work.

2. The present thematic report contains information on the implementation of chapter II (Preventive measures) of the Convention by States parties under review in the second cycle of the Implementation Review Mechanism. It is based on information in the six country review reports that had been completed, or were close to completion, at the time of drafting. The report focuses on existing trends and examples of implementation, and includes a table and figures on the most common challenges and good practices. More comprehensive trends and nuances will be identified in future iterations of the thematic and regional reports, as more data become available from the completed country reviews.

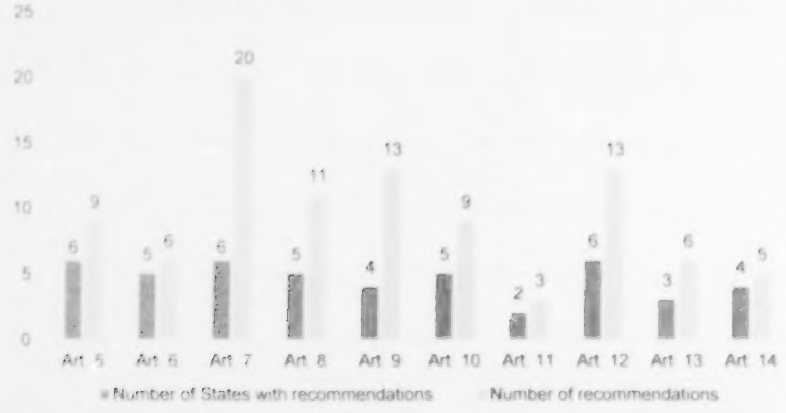
3. Given the close links between the various articles of the four substantive chapters of the Convention, the present report builds upon the previous thematic reports on the implementation of chapters III and IV of the Convention, which were under review in the first cycle of the Implementation Review Mechanism. The structure of the present report follows the structure of the executive summaries; certain articles and topics that are closely related are clustered together.

II. General observations on challenges and good practices in the implementation of chapter II of the United Nations Convention against Corruption

4. As requested by the Implementation Review Group, the present report contains an analysis of the most prevalent challenges and good practices in the implementation of chapter II, organized by article of the Convention. The figures and table below cover the six countries under analysis.[1]

Figure I

Challenges identified in the implementation of chapter II of the United Nations Convention against Corruption



[1] Data used in the preparation of the present report are based on country reviews as at 3 April 2018.

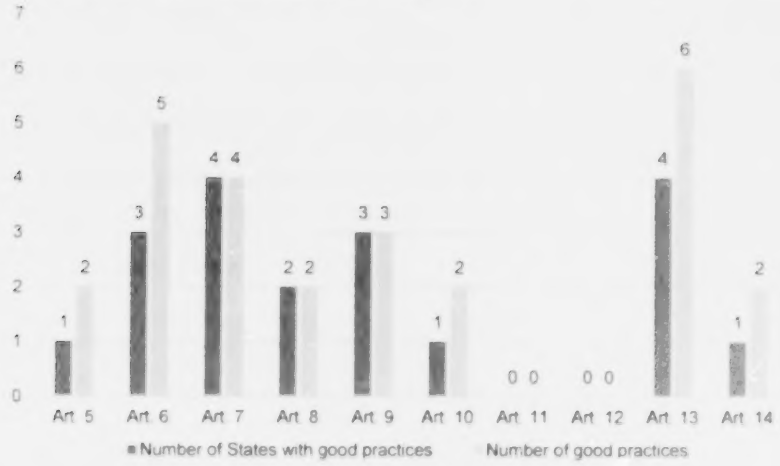
Most prevalent challenges in the implementation of chapter II of the United Nations Convention against Corruption

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence of identified challenges)*
Art. 7, para. 1	6	8	Lack of adequate procedures for the selection and training of individuals for public positions considered vulnerable to corruption and their periodic rotation, where appropriate Insufficient transparency in the recruitment of public officials, including lack of objective recruitment methods, limited public advertising of vacancies and inadequate appeal mechanisms for unsuccessful candidates
Art. 12, paras. 1 and 2	6	9	Limited cooperation between law enforcement agencies and relevant private entities Insufficient measures to prevent conflicts of interest, including lack of "cooling-off" periods for former public officials Inadequate measures to prevent the misuse of procedures regarding subsidies and licences granted by public authorities for commercial activities Limited standards and procedures, such as codes of conduct, aimed at safeguarding the integrity of private entities
Art. 7, para. 3	5	5	Lack of comprehensive legislation or administrative measures to regulate the funding of candidatures for elected office and the funding of political parties, including on issues such as private donations and disclosure of donations
Art. 10	5	9	Lack of legislation or regulations to comprehensively regulate public access to information Burdensome procedures for accessing information and insufficient proactive information-sharing
Art. 5, para. 1	5	5	Weak coordination of policies to prevent corruption Limited coherence, comprehensiveness and effectiveness of national anti-corruption policies
Art. 7, para. 2	4	4	Limited criteria concerning candidature for and election to public office
Art. 8, para. 5	4	4	Ineffectiveness of conflict of interest and, in particular, asset declaration systems, including a limited scope of their application and lack of effective verification and monitoring
Art. 14, para. 1	4	4	Country-specific gaps in anti-money-laundering and countering the financing of terrorism legislation and regulations Institutional weaknesses in financial supervision Incomplete implementation of recommendations issued by other international monitoring bodies, such as the Financial Action Task Force and Financial Action Task Force-style regional bodies
Art. 9, para. 1	3	4	Ineffective systems of domestic review and appeal in public procurement matters Inadequate selection of and screening methods and training for procurement officials No obligation for procurement officials to declare their interests and assets
Art. 8, paras. 2 and 6	3	4	Lack of codes of conduct for public officials, or the limited application thereof to certain groups of public officials Unavailability of disciplinary measures
Art. 7, para. 4	3	3	Lack of legislation or mechanisms to prevent or regulate conflicts of interest
Art. 9, para. 2	3	3	Limited transparency in the budget adoption process No or limited risk management systems in the area of public financial management

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence of identified challenges)*
Art. 13, para. 1	3	4	Limited participation of civil society in the prevention of and fight against corruption, including as a result of the lack of a law on freedom of the press and limited corruption awareness campaigns
Art. 8, para. 4	3	3	Limited channels and protection measures for public officials to report acts of corruption
Art. 5, para. 2	2	2	Lack of anti-corruption practices, such as awareness-raising or education campaigns
Art. 11, para. 1	2	2	Lack of an asset declaration system for judges, where appropriate Inadequate safeguards on the independence of temporarily appointed judges
Art. 12, para. 3	2	2	Insufficient measures to implement all elements of this paragraph
Art. 6, para. 1	1	1	Lack of a designated preventive anti-corruption body
Art. 14, para. 2	1	1	Limited powers of the financial intelligence unit to freeze assets and block suspicious transactions

Figure II

Good practices identified in the implementation of chapter II of the United Nations Convention against Corruption



III. Implementation of chapter II of the United Nations Convention against Corruption

A. Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (articles 5 and 6)

5. As identified in the reviews, countries have taken various approaches to the adoption of national preventive anti-corruption policies.

6. Three countries had adopted dedicated written anti-corruption strategies and action plans; however, the reviewers noted the need to ensure greater coherence and coordination of the policies adopted.

7. Two other countries had no written national anti-corruption policies. One of them, owing to the small size of the national administration and limited resources and expertise, used its international reporting obligations to regularly assess the situation and relied on the recommendations from the international peer review processes as a

basis for developing and implementing any anti-corruption policy. Although the reviewers were satisfied with that approach, they recommended that the country ensure that all areas of the Convention were subject to comprehensive and ongoing review. In the other country, several sectoral anti-corruption policies were in place; nevertheless, it was recommended that the country adopt a comprehensive national strategy to allow for greater effectiveness and coordination.

8. Another country's anti-corruption policies were contained in various laws, departmental policy documents and the national integrity plan, which was seen as sufficient by the reviewers. However, it was recommended that the country consider enhancing coordination between national and departmental anti-corruption policies, in particular with regard to implementation, monitoring and revision and information exchange.

9. Countries reported numerous practices aimed at the prevention of corruption, including the organization of awareness-raising and education activities, the introduction of whistle-blowing regimes for public officials, the provision of training for public officials and the development of corruption risk management tools and various reports, surveys and studies. The establishment of integrity units in governmental bodies and departments and the publication of the annual reports of the anti-corruption body's panels and committees and surveys of public perception were seen as good practices in that regard.

10. All countries reported that their anti-corruption bodies played a role in the review of relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption. In one country, the preventive body evaluated national anti-corruption legislation in the light of the recommendations issued in the framework of international review mechanisms. In another country, the review and evaluation was carried out on an ad hoc basis and the reviewers recommended that the adoption of a more systematic approach to that task be considered.

11. All countries reported on their membership or involvement in regional and international organizations, programmes and projects aimed at the prevention of corruption, including the following: Group of States against Corruption of the Council of Europe; Working Group on Bribery in International Business Transactions of the Organization for Economic Cooperation and Development; Anti-Corruption Initiative for Asia and the Pacific of the Asian Development Bank and the Organization for Economic Cooperation and Development; International Anti-Corruption Academy; International Association of Anti-Corruption Authorities; Global Anti-Corruption Initiative of the United Nations Development Programme; Advisory Board on Corruption of the African Union; Network of National Anti-Corruption Institutions in West Africa; Extractive Industries Transparency Initiative; Pacific Islands Law Officers' Network; Pacific Islands Forum Secretariat; secretariat of the Pacific Community; and Pacific Association of Supreme Audit Institutions. International treaties such as the African Union Convention on Preventing and Combating Corruption and the Economic Community of West African States Protocol on the Fight against Corruption were also noted as relevant. One country provided information on numerous memorandums of understanding with other States in the area of anti-corruption.

12. Five countries had established dedicated anti-corruption bodies that were responsible for the implementation of policies and activities on the prevention of corruption. In addition, they reported that several other national institutions, including ethics committees, financial intelligence units and public service departments, played a role in the prevention of corruption and the implementation of national strategies. In one country, a steering committee involving representatives of the public sector, the private sector and civil society had been established to coordinate oversight of the national anti-corruption strategy. Only one country reported that it had no specialized anti-corruption preventive body in place. It was recommended that the country establish such a body in the future.

13. The place of anti-corruption preventive bodies in national institutional structures, and therefore their independence, varied. For example, in one country, the body was composed of representatives of various governmental ministries, but that was not considered to pose any practical challenges to its independence owing to its limited role in exercising coordination and policy development functions and proposing ways to implement international recommendations. In another country, the law guaranteed the independence of the anti-corruption agency, and five independent committees conducted oversight to ensure that its functions were carried out effectively. In addition, the same country was in the process of establishing a constitutional tenure for the head of the agency and a new commission responsible for the recruitment of the agency's staff. In another country, the anti-corruption office was attached to the Head of State and given financial autonomy, and its members were appointed for a renewable three-year term. In another country, the anti-corruption agency was headed by the comptroller general of the State, who was appointed through a competitive recruitment process for a non-renewable five-year term. The agency was independent from other governmental bodies, had its own budget and submitted annual reports to the President, Prime Minister and the President of the National Assembly. However, it was recommended that the country establish the terms of recruitment for the comptroller general and the comptrollers of the State.

14. Three out of the six countries had officially informed the Secretariat of their designated preventive bodies. The others were encouraged to submit information to that effect.

B. Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (articles 7, 8 and 11)

15. All of the countries reviewed had rules and procedures in place governing the recruitment, hiring, retention, promotion and retirement of and disciplinary measures for public officials, which were usually set out in laws governing the civil service. All but one country used a competitive procedure, including written tests and interviews, for the recruitment and promotion of public officials. It was recommended that that country unify its procedures on recruitment and the examinations involved. It was seen as a good practice in one country that the hiring authorities ensured that all vacancy advertisements drew attention to the principles of integrity, honesty, accountability, efficiency and transparency.

16. The relevant institutional structure varied across the countries and ranged from the existence of centralized bodies to a decentralized approach, whereby hiring agencies determined the recruitment and retention of and disciplinary measures for their public officials.

17. In most of the countries, vacancies were usually advertised on the Internet or in newspapers. However, one country received a recommendation on addressing the lack of an online platform for the publication of vacancies. Another country was encouraged to further enhance transparency in the recruitment and promotion of public officials by extending public advertising for lower-ranking positions, as there was a general policy of first publishing vacancies internally to allow for rotation and to maximize the use of existing resources. It was recommended to one country that it consider specifically referencing, in the relevant regulations, the right to appeal appointment and promotion decisions.

18. In general, countries did not elaborate on the concept of "positions considered especially vulnerable to corruption". Only one country had assessed and identified risk areas and positions vulnerable to corruption. It was seen as a good practice that that country had introduced special selection procedures for such positions and had taken measures to mitigate the risks, including through specific staff training and rotation systems. Although one country reported the existence of a rotation system for public officials, that measure was not in place specifically for positions vulnerable to

corruption. Four countries did not have any rotation systems in place, and it was recommended that they introduce such systems for positions considered especially vulnerable to corruption.

19. All countries referred to education and training programmes for public officials, either upon initial appointment or on an ongoing basis. Countries reported that those training programmes included anti-corruption, ethics and integrity components.

20. Some countries referred to their existing salary scales to demonstrate that adequate remuneration was provided to public officials.

21. All countries referred to their laws setting out criteria concerning candidature for and election to public office. However, it was recommended that two countries establish criteria relating to candidatures with a view to preventing corruption, and one country was encouraged to prohibit the candidature of persons convicted of offences established in accordance with the Convention. Two countries reported that there was no requirement for asset disclosure by candidates for public office. One of those countries was encouraged to consider adopting requirements for elected officials, prior to or upon entry to elected office, to file asset declarations and demonstrate compliance with tax obligations, past and present, as the lack of such requirements had been identified as a concern by the country under review.

22. With regard to the issue of transparency in the funding of candidatures for elected public office and the funding of political parties, challenges were identified and recommendations were subsequently issued to five countries under review. For example, although one country had a law on the funding of political parties, it did not regulate private donations. The country was encouraged to consider enhancing the transparency of private donations, ideally through the introduction of a threshold for disclosure and publication. Similarly, in another country, private funding was left unregulated, and a corresponding recommendation was issued. In another country, although criteria relating to the funding of presidential candidates, political parties and several other candidatures for elected office were in place, penalties for non-compliance were only applicable to natural persons; it was recommended that the country extend them to legal persons. However, it was considered a good practice that natural persons who provided or accepted prohibited funding incurred the same penalties as those who committed corruption. Two other countries did not regulate political party financing and it was recommended that they adopt laws or rules to that end.

23. Countries reported on various legal measures and administrative frameworks to regulate conflicts of interest in the public sector. Some referred, for example, to measures prohibiting public officials' engagement in secondary employment, or measures on gifts and declaration of assets. However, not all countries had introduced such measures and several recommendations were issued, including a recommendation to consider introducing post-employment restrictions on the activities of former public officials in the private sector, adopting systems and procedures for public officials to declare potential conflicts of interest (outside activities, employment, substantial gifts or benefits from which a conflict may arise) and adopting a bill on the prevention of conflicts of interest; such efforts were already under way.

24. With regard to the conduct of public officials, all countries referred to their general laws on the civil service or statutes of individual public bodies. All countries also reported that codes of conduct or ethics were in place for public officials.

25. Three countries had adopted general codes of conduct that set out the duties, principles and guidelines for all public officials. However, the code of conduct of one of those countries was not applicable to elected public officials; it was therefore recommended that the country either expand the scope of the code of conduct or adopt a specific new code for elected public officials. Apart from the general code of conduct, that country had also adopted several sectoral codes of conduct. A similar approach was taken by two other countries that had adopted not only a principal code

for all government officers, but also separate codes of conduct for individual ministries, agencies, parliamentarians and statutory bodies. The approach of adopting only specific sectoral codes of conduct was taken by two other countries. It was nevertheless recommended that one of those countries adopt a general code of ethics for all public officials and consider taking disciplinary or other measures against officials who violated its provisions. In the second country, sectoral codes of conduct had not been adopted in all public bodies and institutions and the country was therefore encouraged to adopt codes of conduct for all public officials.

26. In four countries, the codes of conduct were of an aspirational nature and served to raise awareness, but were not a disciplinary tool. One of those countries explained that that was because their code of conduct was based on the relevant provisions of the civil service law that already provided for disciplinary measures, such as reprimand, reduction of wages, transfer or termination of employment. Only one country's sectoral codes of conduct included enforcement provisions and mandated the relevant human resources departments to ensure compliance with the rules and to apply disciplinary measures. In another country, the code provided for disciplinary measures, including dismissal, for non-compliance.

27. Countries' measures and systems to facilitate the reporting by public officials of acts of corruption varied. In four countries, public officials had a duty to report any suspected crime, including corruption, to the director of their office, the police, the anti-corruption agency or the public prosecutor. In the other two countries, no duty existed for public officials to report suspected cases of corruption. As for the reporting channels, one country had set up dedicated helplines and physical mailboxes in certain government departments to allow public officials to report corruption. In three countries, public officials could use the general reporting hotlines that were open to both members of the public and public officials. However, in one country, although the code of conduct called for the reporting of misconduct, no measures or systems were in place to facilitate reporting by public officials or the protection of reporting persons. A recommendation was issued accordingly.

28. In three countries, certain categories of public officials were subject to regular asset declaration requirements. However, it was recommended that two of those countries consider expanding the list of persons required to declare assets. The issue of verification was also seen as problematic. In one country, although ministries carried out verification within their departments, there was no oversight of the verification process by any external authority. It was recommended that the country address the issue, with a view to putting in place a system of external oversight on the outcomes of the verification process in each ministry. In another country, no verification process was in place and the responsible department only collected the submitted declarations. One country had adopted legislation on asset declarations; however, the system was not operational and the reviewing States recommended that the country put the system into operation and also expand the list of officials subject to declarations. One country did not have any asset disclosure requirements in place because it was considered that such requirements were inconsistent with the right to privacy; however, the country required all citizens, including public officials, to declare their worldwide income and assets in their tax declarations.

29. One country's code of conduct for public officials contained chapters on conflicts of interest, recusal, gifts and other advantages and secondary employment. Although the code of conduct itself did not include disciplinary measures, other relevant legislation provided for such measures in cases where public officials did not comply with their duties as set out in the code. For example, public officials could only accept small, courtesy gifts, and even the acceptance of those required the approval of their supervisor. Similarly, the exercise of secondary employment was permissible only in certain, limited situations and the director of the office had to be asked in advance for approval. In one country, all public officials were required to declare gifts, donations and other benefits, and all declared items had to be handed over to the State. In another country, all public leaders were required by law to submit asset disclosures and a commission had been established to verify such disclosures

and investigate allegations of misconduct, which could result in monetary penalties. Conflict of interest violations by public sector employees were also punishable under the country's penal code.

30. In all countries, the independence of the judiciary was safeguarded in the Constitution and relevant laws on the organization of the court system. Some countries referred to their statutes that set out the duties and rights of judges and also provided rules on the recruitment, selection and tenure of judges. Selection of judges was usually done through the work of dedicated commissions, councils or committees, which then usually also served as disciplinary bodies for appointed judges. Two countries provided information on dedicated codes of conduct for judges that addressed issues such as conflicts of interest, secondary employment, outside activities and recusal. Two countries reported that training programmes for judges were provided by dedicated institutes. Recommendations were issued to two countries with regard to paragraph 1 of article 11. In one case, it was recommended that the country expand the income and asset declaration system to judges. Another country was encouraged to ensure that temporarily appointed part-time judges enjoyed full independence in the exercise of their duties.

31. In terms of prosecution services, countries had adopted various laws, regulations and directives that governed the conduct of prosecutors. In one country, a dedicated act set out the rights and duties of prosecutors, and the office of the prosecutor enjoyed full independence from the executive branch. Similarly, another country had in place a comprehensive legal framework for its prosecution service and, in addition, all members of the prosecution service were considered public officials and, as such, were governed by all other relevant laws, including asset declaration requirements. A third country required public prosecutors to adhere to the general code of conduct for public officials. In another country, prosecutors reported to the attorney general, who was appointed by the President and enjoyed full independence. Finally, in two other countries, prosecutors were placed under the authority of the Minister of Justice. One country reported that it had a dedicated code of ethics for members of the prosecution service. In addition, some countries reported measures with regard to training and procedures on case management for prosecutors.

C. Public procurement and management of public finances (article 9)

32. All States parties had adopted measures regulating public procurement in the form of domestic legislation or the implementation of applicable international agreements or regulations. However, in one country, the legislation merely provided for the issuance of rules and regulations by the Finance and Treasury Minister, but failed to address the matter in detail, although the Government had produced a procurement guide. A recommendation was issued accordingly.

33. States parties differed in the use of centralized or decentralized procurement systems. The open tender procedure was always applied and, on most occasions, was mandatory for the award of public procurement contracts, although four States parties had stipulated threshold amounts of contract value for open tenders. In all States, the invitation to tender was made public through traditional media and broadcasting channels, as well as electronic procurement systems or tools. However, in one State, sole-source procurement comprised up to 10 per cent of total procurement, and State-owned enterprises did not have to follow many of the procurement rules. It was recommended that that State consider revisions to the procurement legislation to strengthen the competitive process and widen its scope. In another State, restricted invitations to tender or direct agreement were allowed under exceptional circumstances. The criteria for procurement, for example, economic, financial, qualitative or technical bases, were well defined in the legislation of two countries. In general, contracts were awarded to the bidder with the lowest qualifying bid, but other factors such as quality, environmental characteristics and cost-effectiveness could also be taken into consideration. E-procurement was widely used in almost all States parties.

34. Three States parties had established or were establishing domestic review procedures for public procurement. When inconsistencies in the procurement process arose, formal complaints could be made under different mechanisms, with the possibility of judicial appeal to the courts. Moreover, suspension of the tendering procedure or contract performance was possible, subject to certain conditions. Two States parties had introduced or required prior effort for amicable resolution or direct recourse to the contracting authority before litigation, although with no suspending effect in some cases. It was also noted that, in one State, there was no system of domestic review and appeal of procurement decisions, and a recommendation was issued in that regard.

35. In terms of regulating the personnel responsible for procurement, three States had adopted screening procedures for recruitment, legislation or rules on accountability, declaration systems and periodic training. One State had no specific requirements for relevant personnel to declare their interests or assets. Recommendations were given accordingly.

36. All States parties had laws, regulations and procedures regulating the adoption of the national budget. The execution of financial operations and budget implementation were subject to varying levels of control, although in all States, frequent and timely reporting was required and corrections could be made in case of failure. One State had even developed a rating system to measure controls, and an accountability index had been formulated. In another State, all ministries were required to establish budget implementation committees to identify priority areas and address relevant issues. Three States used courts of audit for oversight purposes. Audit reports were generally accessible by the public, with a few exceptions, and follow-up action could be undertaken to resolve issues raised in the reports. Nevertheless, in one State, there was no effective mechanism of audit and oversight for certain categories of expenditure, and a recommendation was issued accordingly.

37. The storage and preservation of financial documents was provided for in three States parties that allowed open access to archives and used electronic systems to manage files. It was seen as a good practice that one State provided that originals had to be kept for a period of 10 years, despite the use of electronic copies.

D. Public reporting; participation of society (articles 10 and 13)

38. All States parties had taken measures to facilitate public access to information, with three countries having relevant legislation in place. One State that did not have relevant legislation provided platforms for the public to obtain information on public administration through open data initiatives. Another State had relevant legal requirements, but they concerned only public procurement, the budget and public financial management. In another State, although the right to information was included as a general principle in the national anti-corruption strategy, no specific legislation had been adopted. It was recommended that those three States parties enhance transparency and strengthen procedures to allow for greater public access to information.

39. Notably, four States provided for multiple channels to access information on public administration. Such channels included the official gazette, national television, press releases, publications and mobile applications. Electronic services and information centres were widely used to handle information requests, with a view to simplifying administrative procedures. In two cases, States had also designated or established dedicated agencies and offices to deal with access requests or to monitor relevant practices. In general, government agencies published annual reports or proactively shared information on diverse platforms. However, one State indicated that only some government divisions published information online, and most ministries did not maintain official websites. A recommendation was issued in that regard.

40. Four States parties had appeals mechanisms for recourse to administrative or judicial remedies in cases where access to information was not granted. However, in one State, that was only possible in public procurement. Four States allowed decisions to deny access to information to be made on legitimate grounds, provided that the reasons were well explained. In that context, the balance between the protection of privacy and personal data, national security and the right to information was raised. For instance, in one State, it was an offence to wrongfully disclose official confidential information, such as Cabinet documents. It was also reported in another State that the application of national secrecy laws limited access to classified government information. A recommendation was issued on addressing that.

41. All States parties respected freedom of association, which was enshrined in their legislation or, as in the case of three States, in the constitution. Freedom of expression was equally protected. Almost all States attached importance to the role played by civil society organizations during the decision-making process. In line with different legislation, initiatives and policies, various means such as referendums, elections and direct consultation, in particular with civil society, were regularly used to promote public participation in the fight against corruption. In addition, one State had designated a seat on the policy council of its anti-corruption national authority for civil society, and two other States had invited non-governmental organizations to provide comments on draft laws. One State reported that civil society organizations had been invited to become members of the steering committee on the drafting and implementation of the national anti-corruption strategy. In one State party, civil society was not consulted on the development of laws or the national budget, but was more engaged in the dissemination of information and awareness-raising campaigns. A recommendation was therefore issued in that regard.

42. Numerous anti-corruption awareness-raising activities were in place in the States parties. Those activities included special curricula and events in schools, frequent training and information campaigns, television shows and periodic reports. Civil society organizations were heavily involved in that process and in the different programmes. However, statistics on the impact of those measures were not available.

43. Regarding the freedom to publish and disseminate information concerning corruption, three States provided for freedom of the press in their legislation, albeit with legal restrictions to protect interests such as the public order and State security. No data on the application of those restrictions were available.

44. In order to facilitate the reporting of complaints and allegations to anti-corruption bodies and authorities, all but one State provided a range of channels and methods, including mail or electronic means, toll-free numbers or hotlines, and mobile applications. In three States, anonymous reporting was allowed and protected, not only on a policy level but also by legal provisions. However, in one State, which had laws to protect anonymous reporting, concerns over the scope of protected disclosures and follow-up mechanisms on reports were raised. That State committed to reviewing its legislation and providing greater protection to reporting persons in combating corruption. Two other States could not provide for the possibility of anonymous reporting.

E. Private sector (article 12)

45. All States had adopted standards and procedures designed to prevent corruption in the private sector to various extents. Most States had adopted national legislation either on corporate governance or in specific areas such as accounting, auditing and business registration, and two States could directly apply the provisions of regional legal instruments or regional accounting standards to corporations. In two countries, special agencies or authorities were designated to supervise corporate governance, and companies were obliged to report periodically on their compliance.

46. Three countries promoted cooperation between law enforcement agencies and private entities through legislation or special initiatives. For example, one State

provided in its anti-money-laundering law that private companies were required to provide information to and collaborate with prosecution and judicial authorities, particularly with regard to freezing and confiscation measures and the reporting of suspicious transactions. Another State was taking steps to establish a whistle-blowing mechanism for auditors, in order to facilitate such cooperation.

47. In order to safeguard the integrity of private entities, two States parties had adopted a variety of standards and procedures, such as codes of conduct, compliance requirements, business judgment rules and mechanisms concerning the prevention of conflicts of interest. One State's anti-corruption strategy required private sector investors to implement anti-corruption compliance programmes, and non-compliance could lead to sanctions. However, in one country, only some large companies had begun to develop compliance programmes, and another State had not taken sufficient steps to preserve integrity in the private sector. Recommendations were issued to both States parties in that regard.

48. Three States had specific business registration requirements for corporations, with a view to enhancing transparency among private entities. In one country, non-registration of the entity could even lead to penal consequences. Nevertheless, owing to the complex composition of the private sector, some legal arrangements, such as trusts, were not fully covered by the registration provisions.

49. No comprehensive information was available on public oversight of the use of subsidies by private entities and licences granted by public authorities for commercial activities, or on the restrictions on the professional activities of former public officials. In one State, there were insufficient measures to prevent the improper use of regulatory procedures for private entities and inadequate restrictions on the exercise of professional activities by former public officials in the private sector. In another State, a regulation prohibiting former public officials from being employed in the private sector after their resignation or retirement was under development. Recommendations were issued to address relevant gaps.

50. Almost all States parties had accounting and auditing standards for the private sector in different forms. Half of them relied on their domestic laws and regulations, and the rest could apply relevant international standards.

51. As for specific requirements on the maintenance of books and records, three States applied strict legal sanctions for violations thereof. Those sanctions included criminal punishment for certain offences such as forgery and falsification of documents, use of false documents, aggravated fraud and deceit. However, except in the case of one State party, not all acts enumerated in article 12, paragraph 3, of the Convention, such as the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions and the intentional destruction of bookkeeping documents earlier than foreseen by the law, were criminalized. In that context, such conduct was always subject to fines, and on a few occasions, the relevant private sector entities could be held individually or jointly liable.

52. There was some variation among the States parties with regard to prohibiting the tax deductibility of expenses that constituted bribes. Although one State clearly provided that tax deductions of expenses constituting bribes were prohibited, the tax laws of three other States were silent on the issue.

F. Measures to prevent money-laundering (article 14)

53. In general, compliance with article 14 was high among the countries covered by the present report. Although all but one country received recommendations relating to article 14, the recommendations were either very specific and focused on addressing particular issues in the country's anti-money-laundering and countering the financing of terrorism framework or concerned with follow-up measures to issues previously identified in other evaluations, such as by the Financial Action Task Force. In particular, the mutual evaluations carried out by the Financial Action Task Force

and Financial Action Task Force-style regional bodies seemed to have ensured a high level of compliance. In fact, all of the countries were members of Financial Action Task Force-style regional bodies such as the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the Council of Europe, the Asia/Pacific Group on Money Laundering and the Intergovernmental Action Group against Money Laundering in West Africa (GIABA). In three countries, the anti-money-laundering and countering the financing of terrorism framework was largely determined by the West African Economic and Monetary Union and the European Union. One State that had received a recommendation on transposing a directive of the relevant regional economic integration organization into domestic law in order to fill existing gaps in the relevant legislation reported that it had done so since the country visit.

54. At the time of the country visit, several countries had completed or were in the process of completing their national risk assessments on money-laundering. The anti-money-laundering and countering the financing of terrorism laws in almost all countries provided for a risk-based approach. Three countries had adopted an "all-crimes" approach to money-laundering, so that any offence, or any offence of a certain gravity, could constitute a predicate offence for the purpose of article 23 of the Convention.

55. The legislation on the prevention of money-laundering in all countries contained provisions on the identification of customers and beneficial owners (the know-your-customer principle), customer due diligence and the levels of scrutiny applied to customers in a manner commensurate with a risk-based approach (typically, "normal", enhanced and simplified due diligence), as well as on the identification of politically exposed persons. The laws also designated supervisory authorities and entities covered by the provisions, including designated non-financial businesses and professions. However, one country's laws did not contain a general obligation with regard to customer due diligence and made the identification of customers (natural persons) mandatory only in the case of non-face-to-face financial operations.

56. Otherwise, there were only minor differences in legislative compliance between the various countries under review. For instance, in one country, domestic politically exposed persons were not covered by the definition in the anti-money-laundering and countering the financing of terrorism law, but that issue would be addressed under new provisions for the transposition of the fourth European Union anti-money-laundering directive. In most countries, even small ones, there were several supervisory authorities. By contrast, one country had established a financial markets authority as the sole, integrated and independent supervisory authority. It was, however, recommended that that authority conduct a larger proportion of inspections itself rather than mandating commercial audit firms to carry out anti-money-laundering audits.

57. All of the countries had established financial intelligence units. Typically, the units were administrative-type financial intelligence units under the authority of the ministry of economic affairs or the central bank. All financial intelligence units were members of the Egmont Group, and sometimes also members of regional groups of financial intelligence units. It was recommended that one country consider giving the financial intelligence unit the power to order the administrative freezing of accounts or transactions or the power to block the execution of transactions for a specific period. Reporting entities were responsible for the filing of suspicious activity reports or suspicious transaction reports.

58. All countries had disclosure-based regimes to monitor the movement of currency and bearer-negotiable instruments across their borders (with a typical threshold equivalent to approximately $10,000), and regimes covering money remitters and the electronic transfer of funds. Informal money transfer services, such as hawala, were not always regulated, and recommendations were issued as appropriate.